

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANUEL SALAIS,

No. C 06-6270 MHP (pr)

Petitioner,

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

v.

BEN CURRY,

Respondent.

The Ninth Circuit has ordered this court to issue or decline to issue a certificate of appealability ("COA") in this case. The court declines to issue a COA because a petitioner does not need a COA to appeal when he is challenging an administrative decision regarding the execution of his sentence by prison officials. See generally Rosas v. Nielsen, 428 F.3d 1229, 1231-32 (9th Cir. 2005). In the alternative, if a COA is needed to appeal when a petitioner is challenging such an administrative decision, the COA is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

DATED: February 27, 2009


Marilyn Hall Patel
United States District Judge